



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201639019

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

JUN 30 2016

Uniform Issue List: 408.03-00

SE: T: EP: RA: TI

Legend

Taxpayer A =

IRA B =

Financial Institution C =

Company D =

Plan E =

Individual F =

Amount 1 =

Amount 2 =

Amount 3 =

Amount 4 =

Dear :

This is in response to your request dated October 18, 2015, as amended by correspondence dated March 23, and May 30, 2016, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested. Taxpayer A represents that he received a distribution equal to Amount 2 from IRA B, which was maintained by Financial Institution C. Taxpayer A asserts that his failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3)(A) of the Code was due to his medical condition which impaired his ability to complete the rollover.

Taxpayer A maintained IRA B and was also a participant in Plan E. Taxpayer A is married to Individual F who manages their financial affairs because of a stroke suffered by Taxpayer A in 2012. In 2015, Individual F contacted Company D, an accounting firm, to inquire about how to best take Taxpayer A's minimum required distribution ("RMD") for the tax year. For 2015, Taxpayer A's RMD from Plan E and IRA B was Amount 3 and Amount 4, respectively. A representative of Company D advised that Taxpayer A could take the entire RMD for both IRA B and Plan E from IRA B. Acting on this advice, on Taxpayer A's behalf, Individual F requested a distribution of Amount 2 from IRA B, with the intention of later withdrawing the balance of the RMD from Plan E. In September of 2015, Individual F was informed by the plan administrator that Taxpayer A had not yet taken his RMD from Plan E. After the 60-day period had expired, Taxpayer A received the required RMD from Plan E. Due to the stroke suffered by Taxpayer A in 2012, he was unable to communicate with Individual F concerning his RMD. As a result, Individual F acted on the bad advice from Company D and Amount 1 was taken in excess from IRA B for 2015.

Based on the above facts and representations, you request a ruling that the Service waive the 60-day rollover requirement under section 408(d)(3) of the Code as to the distribution of Amount 1 and that Taxpayer A be given a period of 60 days from the issuance of the ruling to complete the rollover of Amount 1.

Section 408(a) of the Code defines an IRA to mean a trust created or organized in the United States, and requires that the trustee be a bank or an approved non-bank trustee.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Rev. Proc. 2003-16, 2003-4 I.R.B. 359, provides that the Service will issue a ruling waiving the 60-day rollover requirement in cases where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster or other events beyond the reasonable control of the taxpayer. In determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information and documentation submitted are consistent with Taxpayer A's assertion that the failure to accomplish a rollover of Amount 1 within the 60-day

period was due to Taxpayer A's ongoing medical condition which impaired his ability to manage his financial affairs.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to transfer an amount not to exceed Amount 1 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

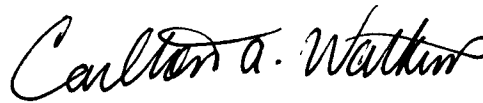
This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact  
(I.D. #           ),           , at            or            (    ) .

Sincerely yours,



Manager  
Employee Plans Technical Group 1

Enclosures:  
Notice of Intention to Disclose  
Deleted copy of this letter